

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No. 2:14-cv-01038-JCC

**DECLARATION OF JASON M.
ADLER IN SUPPORT OF MOTION
TO COMPEL DISCOVERY
RESPONSES AND A RULE 30(b)(6)
WITNESS**

I, Jason M. Adler, declare as follows:

1. I am an attorney employed by the Federal Trade Commission (“FTC”) and counsel of record for Plaintiff FTC in this matter. I submit this declaration in support of the FTC’s Motion to Compel Discovery Responses and a Rule 30(b)(6) Witness (“Motion”).

2. Attached as Exhibit A to the FTC’s Motion is a true and correct copy of the FTC’s First Set of Requests for Production of Documents.

3. On May 15, 2015, Danielle Foley, counsel for Amazon, sent counsel for the FTC certain documents in response to the FTC’s discovery requests and a letter stating, among other things, “[w]ith this production, Amazon has produced the vast majority of its documents responsive to the FTC’s First and Second Document Requests. We are finalizing the review of the small amount of remaining documents and will produce these documents shortly, along with any remaining documents responsive to the FTC’s recent Third Document Requests.”

4. Since May 15, 2015, counsel for Amazon has produced over 85,000 pages of responsive documents, including over 16,000 pages that the FTC received on September 28, 2015, the last day of discovery.

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1 5. Attached as Exhibit B to the FTC's Motion is a true and correct copy of a
2 September 21, 2015 e-mail exchange between Amazon and the FTC about Amazon's call
3 recordings. Before Amazon sent this e-mail, it had not disclosed to the FTC that it had
4 responsive call recordings.

5 6. Attached as Exhibit C to the FTC's Motion is a true and correct copy of the FTC's
6 Amended Notice of Rule 30(b)(6) Deposition, which was served on September 16, 2015. The
7 Amended Notice modifies a deposition notice originally served on August 21, 2015.

8 10. Attached as Exhibit D to the FTC's Motion are true and correct copies of
9 Amazon.com, Inc.'s Responses and Objections to Plaintiff's Notice of Rule 30(b)(6) Deposition
10 and Requests for Production of Documents and Amazon.com, Inc.'s Responses and Objections
11 to Plaintiff's Amended Notice of Rule 30(b)(6) Deposition and Requests for Production of
12 Documents.

13 11. Attached as Exhibit E to the FTC's Motion is a true and correct copy of an email
14 exchange between Amazon and the FTC regarding the Rule 30(b)(6) deposition of Amazon. The
15 email exchange begins August 21, 2015 and ends September 22, 2015.

16 12. Attached as Exhibit F to the FTC's Motion are true and correct copies of two
17 email exchanges between Amazon and the FTC regarding the Rule 30(b)(6) deposition of
18 Amazon and the call recordings that have not been produced. The first email exchange begins
19 September 23, 2015 and ends September 24, 2015, and the second email exchange begins
20 September 24, 2015 and ends September 25, 2015.

21 13. Counsel for the parties (including Jason Adler for the FTC and David Burman for
22 Amazon) met and conferred telephonically on September 24, 2015 regarding the customer
23 service call recordings that had not been produced and the Rule 30(b)(6) deposition topics for
24 which Amazon did not designate a witness before the close of discovery. During the call,
25 counsel for Amazon stated that other counsel withheld the call recordings based on that counsel's
26 assessment that production would be unduly burdensome.

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1 14. Counsel for the FTC and Amazon were unable to reach an agreement regarding
2 the production of the call recordings. Counsel for the FTC and Amazon have agreed to continue
3 the Rule 30(b)(6) deposition as to the remaining topics in the notice on October 2, 2015, but the
4 parties have not been able to reach an agreement that Amazon will provide full testimony as to
5 all of the remaining topics.

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed this 28th day of September 2015.

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9 s/ Jason M. Adler
10 JASON M. ADLER

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